In claim 36, line 2, after "Figure 2" and before the period, insert --(SEQ ID NO:6)--;

In claim 37, line 11, after "ATGCCT . . . ATG", insert --(SEQ ID NO:1)-- and line 12, after "GAAATC . . . GTC" and before the comma, insert --(SEQ ID NO:2)--.

In claim 38, line 13, after "ATGCCT . . . ATG", insert --(SEQ ID NO:1)-- and line 14, after "GAAATC . . . GTC" and before the comma, insert --(SEQ ID NO:2)--.

In claim 42, line 2, after "Figure 2" and before the period, insert --(SEQ ID NO:6)--;

REMARKS

1. Sequence Listing

Applicants have amended the specification and claims to comply with the requirements under 37 C.F.R. § 1.821(d). Applicants respectfully request entry of this Amendment and examination on the merits.

Applicants have also amended the 15th codon of SEQ ID NO:3 on page 4, line 16, by deleting "GGA" and inserting therefor --GGG--. SEQ ID NO:3 corresponds to nucleotides 574 to 708 of Figure 2A. As can be seen from Figure 2A, nucleotides 616 to 618 are "GGG", not "GGA". Accordingly, applicants have amended the specification to correct the 15th codon of SEQ ID NO:3, which is supported by Figure 2A. No new matter is added by this Amendment.

LAW OFFICES
FINNEGAN, HENDERSON, FARABOW, GARRETT, & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, D.C. 20005
202-408-4000

The computer-readable form in this application, 09/015,078, is identical with that filed in the parent application, Application Serial No. 08/671,757, filed June 28, 1996. In accordance with 37 C.F.R. § 1.821(e), please use the computer-readable form filed in that application as the computer-readable form for the instant application. It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the computer-readable form that will be used for the instant application. A paper copy of the Sequence Listing, submitted herewith, is identical to the computer-readable copy submitted in Application Serial No. 08/671,757.

Submission of the Sequence Listing filed herein, in accordance with 37 C.F.R. § 1.821(g), does not include new matter.

2. Restriction Requirement

The Examiner has issued a restriction requirement as follows:

Group I: Claims 31-36, directed to a DNA probe, and

Group II: Claims 37-42, directed to a method for identifying infections.

The Examiner alleges that the inventions of Groups I and II are distinct because the nucleic acid of Group I can be used in a process materially different from the process of Group II, such as in a polymerase chain reaction. The Examiner also states that the process for identifying infections of Group II can be practiced with a product materially different from the product of Group I, such as with antibodies.

Applicants elect Group II directed to a method for identifying infections, with traverse. Applicants submit that the Examiner has not adequately shown that

LAW OFFICES
FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
WASHINGTON, D. C. 20005
202-408-4000

examining claims 31-42 will create a serious burden on the U.S. PTO. Thus, applicants respectfully request that the restriction requirement be withdrawn.

3. Election of Species Requirement

Second, the Examiner has required an election of species as follows:

Group I: (a) OLFIbA-1, and
(b) OLFIbA-2.

Group II: (a) a bacterial strain lacking the hook protein of *H. pylori*,
(b) strain N6 (NCIMB 40512),
(c) strain N6 (NCIMB 40512) and lacking the hook protein,
(d) strain N6flbA- (NCIMB 40747), and
(e) N6flbA- (NCIMB 40747) and lacking the hook protein.

Applicants submit that the generic claims include sufficiently few species that a search and examination of all the species at one time would not impose a serious burden on the Examiner.

The two oligonucleotide sequences of Group I, OLFIbA-1 and OLFIbA-2, are used in the present invention together as a primer pair in an amplification reaction. Applicants are not arguing that the two nucleotide sequences are not patentably distinct species from each other. Instead, applicants submit that examining the two sequences do not constitute an undue burden on the Examiner.

The Commissioner has addressed this issue and determined that normally ten sequences constitute a reasonable number of nucleotide sequences for examination. *See Examination of Patent Applications Containing Nucleotide Sequences*, 1192 O.G.

LAW OFFICES
FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, D.C. 20005
202-408-4000

68 (November 19, 1996); *See also*, M.P.E.P. § 803.04. Clearly then, the two nucleotide sequences constitute a reasonable number.

Furthermore, Group II contains only five species. The Examiner also has not shown that examining these five species together would impose a serious burden on the Examiner. Thus, applicants respectfully request that the Examiner withdraw the election of species requirement.

However, to respond to the election of species requirement, applicants elect specie (a) from Group I and specie (a) from Group II, with traverse. Claims 31-42 read on OFLIbA-1 [specie (a) of Group I]. Claims 33 and 39 read on a bacterial strain lacking the hook protein of *H. pylori* [specie (a) of Group II].

If there are any additional fees due in connection with the filing of this Response, please charge them to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

By: Charles E Van Horn #40266
for Kenneth J. Meyers
Reg. No. 25,146

Dated: August 16, 1999

LAW OFFICES
FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, D.C. 20005
202-408-4000